

Response Under 37 C.F.R. §1.116 - Expedited Examining Procedure

Page 2 of 5

Serial No.: 10/674,174

Confirmation No.: 1946

Filed: 29 September 2003

For: CLOSURE SYSTEM AND METHOD OF MANUFACTURE

of the first major surface of the carrier tab faces the second major surface of the base tab such that the outer edge of the base tab is located between the inner and outer edges of the carrier tab, wherein the first major surface of the carrier tab and the second major surface of the base tab are not attached to each other within the overlap region. Dependent claims 29 and 30 both recite similar features, but depend, respectively, from claims 1 and 15.

In addition to the arguments and analyses previously presented with respect to the rejection of claims 29-43 based on the teachings of EP '121, Applicants have the following comments and respectfully request reconsideration of the rejection of claims 29-43 in view of the same. Essentially, Applicants submit that EP '121 teaches that the carrier tab (substrate 48) is directly attached to the base tab (side panel 90) within the overlap region (80) – which is in direct contradiction to the recitations in claims 29-43 that that the carrier tab and the base tab are not attached to each other in the overlap region. As a result, EP '121 cannot teach (or suggest) that "the first major surface of the carrier tab and the second major surface of the base tab are not attached to each other within the overlap region" as recited in claims 29-43.

In support of the rejection of claims 29-43 it is asserted in Paragraph 6 of the Final Office Action (October 10, 2006) that EP '121 "does not state that the substrate portion is adhesively bonded to the base tab in the overlap region." Although EP '121 may not explicitly teach that the substrate member 48 is "adhesively bonded" to the base tab (side panel 90), it does teach that the substrate member 48 is attached to the side panel 90. In particular, review of Figure 3 of EP '121 and the associated portion of column 24 describing the figure shows that the substrate portion 48 (carrier tab) must be attached to the side panel 90 (base tab) – regardless of whether or not the release tape 74 overlaps and is adhesively attached to the substrate portion 48.

As support for Applicants' position that EP '121 teaches that the substrate portion 48 is attached to the side panel 90, consider the following analysis. EP '121 teaches that a release tape 74 may be provided as a place to attach an adhesive fastener prior to its use by a consumer. *See, e.g., EP '121, column 23, lines 31-57.* As discussed in the first sentence of column 24, the "release tape 74 may optionally overlap and adhesively bond to an intermediate section of

Response Under 37 C.F.R. §1.116 - Expedited Examining Procedure

Page 3 of 5

Serial No.: 10/674,174

Confirmation No.: 1946

Filed: 29 September 2003

For: CLOSURE SYSTEM AND METHOD OF MANUFACTURE

substrate member 48 along a bond region which traverses across the length of the substrate member." In other words, the release tape 74 might overlap and be adhesively bonded to the substrate member 48 -- or it might not. In those instances where the release tape 74 does not overlap with and attach to the substrate member 48, the substrate member 48 must be attached to the side panel 90 or the fastener 50 will not be attached to the diaper.

Furthermore, the substrate member 48 must be attached to the side panel 90 to form the recited "Y-bond" if the release tape 74 overlaps with and is adhesively bonded to the substrate member 48. If the substrate member 48 is not attached to the side panel 90 when the release tape 74 overlaps with and is attached to the substrate member 48, then no "Y-bond" can be formed.

Furthermore, any assertion that the substrate member 48 is not attached directly to the side panel 90 (in the absence of the optionally overlapping release tape 74) cannot be supported because such a construction would result in a non-functional assembly in those instances where the release tape 74 does not overlap and bond with the substrate member 48. The assembly would be non-functional because the substrate member 48 would not be attached to the side panel 90 and the release tape 74 does not overlap and attach to the substrate member 48. As a result, such a modification would violate one or both of the tenets that a proposed modification cannot render the prior art unsatisfactory for its intended purpose (*see, e.g.*, MPEP § 2143.01(V), p. 2100-129, 8th Ed., Rev 5 (August 2006)) and that a proposed modification cannot change the principle of operation of a reference (*see, e.g.*, MPEP § 2143.01(V), p. 2100-130, 8th Ed., Rev 5 (August 2006)).

For at least the reasons presented above, Applicants respectfully submit that a *prima facie* case of obviousness has not been established with respect to claims 29-43 over EP '121 in view Dilnik et al. Reconsideration and withdrawal of the obviousness rejection of claims 29-43 are, therefore, respectfully requested.

Response Under 37 C.F.R. §1.116 - Expedited Examining Procedure

Page 4 of 5

Serial No.: 10/674,174

Confirmation No.: 1946

Filed: 29 September 2003

For: CLOSURE SYSTEM AND METHOD OF MANUFACTURE**Claims 1-3 and 7-15**

Applicants respectfully continue to traverse the obviousness rejection of claims 1-3 and 7-15 for the reasons previously presented and expressly reserve the right to challenge the rejection of claims 1-3 and 7-15 on appeal or in a continuation application.

Claim 44

Claim 44, which further claims Applicants' invention as disclosed in the specification and the figures, is novel and nonobvious over EP 0 669 121 A1 and Dilnik et al. for at least the reason that neither of these documents teach or suggest bonding tape adhesively attached and welded to the second major surface of the base tab, wherein the bonding tape is welded using a welding technique selected from the group consisting of chemical welding, dynamic mechanical welding, and combinations thereof, as recited in new claim 44.

It is asserted in the Office Action that "the method of forming the device is not germane to the issue of patentability of the device itself." Office Action, p. 7, ¶ 8 (October 10, 2006). Applicants respectfully disagree and expressly reserve the right to challenge this rejection and the assertions made in support thereof on appeal or in a continuation application.